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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,112	06/08/2005	Lukas Kupper	DE 020308	8863

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EXAMINER

DUNWIDDIE, MEGHAN K

ART UNIT PAPER NUMBER

2875

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/538,112	KUPPER, LUKAS	
	Examiner	Art Unit	
	Meghan K. Dunwiddie	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-11 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 3,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/17/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is a Final Rejection in response to the amendment received on June 17, 2006 by **Kupper**.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 6, 7, 12, and 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. It is unclear as to what "**a coating**" in Claim 4 defines, as a coating has been previously set forth in Claim 1, and as such the coating in Claim 4 must either be "**said coating**" or "**a second coating**" to distinguish it from the coating in Claim 1. Claims 6, 7, and 16 depend on rejected Claim 4 and as such are similarly rejected.

4. Claim 12 is indefinite in that it depends on Claim 2, which also recites a coating, and therefore it is not understood as to whether the coating of Claim 1 or the coating of Claim 2 is being recited in Claim 12 as "**the coating**" because Claim 2 is dependent upon Claim 1.

5. Claims 14 and 15 are indefinite in that they depend on Claim 5, which also recites a coating, and therefore it is not understood as to whether the coating of Claim 1 or the coating of Claim 5 is being recited in Claims 14 and 15 as "**the coating**" because Claim 5 is dependent upon Claim 1.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by **Kawakatsu** (JP 07-220692-A).

8. In reference to Claim 1, **Kawakatsu** shows a lamp comprising:

- A bulb that generates visible light and infrared light, characterized in that the bulb is provided with a coating that reflects middle infrared radiation and is transparent to near infrared radiation [See paragraphs [0038]-[0049] in reference to Figure 3 and Figures 5a and 5b: (L, 5)]

9. In reference to Claim 2, **Kawakatsu** shows:

- The bulb has an elliptical shape [Figure 5b: (L)].

10. In reference to Claim 8, **Kawakatsu** shows:

- A headlamp [See Figure 4].

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4, 5, 7, 12, 13, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawakatsu** (JP 07-220692-A) in view of **Tsuda et al.** (US 2002/0063503).

13. Regarding Claims 4 and 12, **Kawakatsu** shows the claimed invention as cited above, but does not specifically teach the bulb is provided with a coating that eliminates visible light.

14. **Tsuda et al.** teaches:

- The bulb is provided with a coating that eliminates visible light [Figure 2: (40)].

15. It would have been obvious for one of ordinary skill in the art, at the time of the invention to provide the bulb of **Kawakatsu** with a coating that eliminates visible light as taught by **Tsuda et al.** for the purpose and advantage of for blocking visible light and transmitting infrared light.

Art Unit: 2875

16. Regarding Claims 5 and 13, **Kawakatsu** shows the claimed invention as cited above, but does not specifically teach the bulb is surrounded by an external bulb having a coating that eliminates visible light.

17. **Tsuda et al.** teaches:

- The bulb is surrounded by an external bulb having a coating that eliminates visible light [Figure 2a: (30)].

18. It would have been obvious for one of ordinary skill in the art, at the time of the invention to provide the bulb of **Kawakatsu** with an external bulb as taught by **Tsuda et al.** for the purpose and advantage of containing light emitted in a waveband harmful to human beings.

19. Regarding Claims 7, 15, and 16, **Kawakatsu** shows the claimed invention as cited above, but does not specifically teach the bulb is surrounded by an external bulb having a coating that eliminates visible light.

20. **Tsuda et al.** teaches:

- The coating is arranged in a lower area of the bulb [Figure 2a: (40)].

Art Unit: 2875

21. It would have been obvious for one of ordinary skill in the art, at the time of the invention to provide the bulb of **Kawakatsu** with a coating on the lower area of the bulb as taught by **Tsuda** et al. for the purpose and advantage of eliminating the visible light.

Allowable Subject Matter

22. Claims 9-11 are allowed.

23. Claims 3, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

24. Applicant's arguments filed June 17, 2006 have been fully considered but they are not persuasive. In response to applicant's arguments of the **Kawakatsu** reference used to reject Claims 1, 2, and 8 they have been fully considered but are not persuasive. Regarding Claim 1, **Kawakatsu** clearly shows a lamp with a bulb that generates visible light and infrared light and the bulb has a coating that reflects middle infrared radiation and is transparent to near infrared radiation [See paragraphs [0039] and [0042]]. Regarding Claim 2, **Kawakatsu** clearly shows the bulb having an elliptical shape [Figure 5B: (L)]. Regarding Claim 8, **Kawakatsu** clearly shows a headlamp in Figure 4.

25. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

Art Unit: 2875

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of **Kawakatsu** (JP 07-220692) and **Tsuda et al.** (US 2002/0063503) is made to show the bulb is provided with a coating that eliminates visible light, the bulb is surrounded by an external bulb having a coating that eliminates visible light, and the coating is arranged in a lower area of the bulb. One of ordinary skill in the art, at the time of the invention would combine **Kawakatsu** with **Tsuda et al.** for the purpose and advantage of blocking visible light as clearly stated in **Tsuda** [See page 3 paragraph [0043]].

26. It is for the above noted reasons that applicant's arguments are non-persuasive.

Conclusion

27. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2875


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meghan K. Dunwiddie whose telephone number is (571) 272-8543. The examiner can normally be reached on Monday through Friday 8 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKD


Stephen Husar
Primary Examiner